

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE:

CHERYL ANN JORDAN : CASE NO. 17-18499 (REF)
:
Debtor : CHAPTER 7

DEBTOR'S MOTION TO AVOID JUDICIAL LIEN OF TD BANK USA, N.A.
AS SUCCESSOR IN INTEREST TO TARGET NATIONAL BANK
PURSUANT TO SECTION 522(F)

The motion of the Debtor, Cheryl Ann Jordan, through her counsel, Stephen J. Palopoli III, Esquire, respectfully represents:

1. The above-captioned case was commenced by the filing of a voluntary petition for relief under chapter 7 of Title 11 of the United States Code ("Bankruptcy Code") on December 19, 2017 ("Filing Date").
2. This motion is brought pursuant to Bankruptcy Code §522(f) and Bankruptcy Rule 4003(b) and 9014.
3. This court has jurisdiction over this proceeding pursuant to 28 U.S.C. §1334 and 28 U.S.C. §157(b)(2)(0). This is a core proceeding.
4. The respondent is TD Bank USA, N.A. as Successor In Interest to Target National Bank ("TD Bank") with a business office at 3701 Wayzata Blvd., Minneapolis, MN 55416.
5. As of the Filing Date, the Debtor, Cheryl Ann Jordan was the owner of certain real property located at 417 Vine Street, Bethlehem, Pennsylvania, Northampton County, Document I.D. No. P6SE1A 25 10 (the "Real Property") which was, and remains the Debtor's principal residence.

6. On or about November 10, 2014, TD Bank entered judgment against the Debtor, Cheryl Ann Jordan in the Court of Common Pleas of Northampton County, Pennsylvania at docket no. C 48 CV-2014-10806 in the sum of \$4,600.00 (together with all additional accrued interest and costs to the Filing Date) (the “TD Bank Judgment”).

7. The fair market value of the Real Property as of the Filing Date was \$52,000.00.

8. As of the Filing Date, the Real Property was subject to the following liens and encumbrances:

a. Mortgage in favor of Bank of America obtained in June 15, 2008 and recorded in the office of the Recorder of Deeds, Northampton County and having an approximate outstanding balance on the Filing Date of \$15,090.00;

b. Judgment in favor of Discover Bank against the Debtor, Cheryl Ann Jordan, in the Court of Common Pleas of Northampton County, Pennsylvania docket no. C 48 CV 2015 2845 on June 15, 2015 in the sum of 14,000.29;

c. Judgment in favor of Citibank, N.A. against the Debtor, Cheryl Ann Jordan, in the Court of Common Pleas of Northampton County, Pennsylvania at docket no. CV-2014-11635 in the sum of \$11,796.33;

d. Judgment in favor of Cavalry SPV I, LLC, as Assignee of Citibank, N.A. against the Debtor, Cheryl Ann Jordan, in the Court of Common Pleas of Northampton County, Pennsylvania at docket no. CV-2017-05400 in the sum of \$14,237.20; and

e. The TD Bank Judgment.

9. If the Real Property was not encumbered by any liens, the Debtor could have claimed an exemption in the Debtor’s interest in the Real Property in the sum of \$23,675.00 pursuant to Section 522(d)(5) of the Bankruptcy Code.

10. The TD Bank Judgment created a judicial lien upon the Debtor's interest in the Real Property which impairs an exemption to which the Debtors are entitled in the Real Property.

11. Section 522(f) of the Bankruptcy Code, 11 U.S.C. §522(f) permits a debtor to avoid the fixing of a judicial lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the Debtor would have been entitled under the Bankruptcy Code.

12. For the purposes of Section 522(f), a lien shall be considered to impair an exemption to the extent that the sum of (a) the lien, (b) all other liens on the property; and (c) the amount of the exemption that the debtor could claim if there were no liens on the property, exceeds the value that the Debtor's interest in the property would have in the absence of any liens.

13. The sum of the lien of the TD Bank Judgment (\$4,600.00), all other liens on the Real Property (\$55,123.82) and the Debtor's available exemption (\$23,675.00) exceeds the value of the Debtor's interest in the Real Property (\$52,000.) by \$31,398.82 and, therefore, the lien of the TD Bank Judgment should be avoided in its entirety.

WHEREFORE, the Debtor moves this Honorable Court to enter an order avoiding the lien of the TD Bank USA, N.A. As Successor In Interest To Target National Bank Judgment upon the Real Property, and for such other and further relief as the Court deems just and proper.

Dated: April 17, 2018

By



Stephen J. Palopoli, III, Esquire
Attorney for Debtors
1125 S. Cedar Crest Blvd., Suite 205
Allentown, PA 18103
Attorney ID 53647

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ORDER

Upon Debtor's Motion to Avoid Judicial Lien (the "Motion") entered in the case of TD Bank USA, N.A., As Successor In Interest To Target National Bank vs. Cheryl Ann Jordan in the Court of Common Pleas of Northampton County, Pennsylvania, docket no. C 48 CV-2014-10806 on November 10, 2014 in the sum of \$4,000.00 (the "Judicial Lien") upon Debtor's exempt real property located at 417 Vine Street, Bethlehem, PA 18015 bearing PIN No. P6SE1A 25 10 (the "Real Property"), and upon Debtor having asserted that the alleged lien is subject to avoidance pursuant to 11 U.S.C. §522(f)(1), and upon debtor having certified that adequate notice of the Motion was sent to the lienholder and that no answer or other response to the Motion was sent to the lienholder and that an answer or other response to the Motion has not been filed.

It is ORDERED that the Motion is granted by default and the above Judicial Lien of TD Bank USA, N.A., as Successor In Interest To Target National Bank, if any, upon Debtor's Real Property is avoided, cancelled and of no further effect.

IT IS FURTHER ORDERED, pursuant to section 349(b)(1)(B), 11 U.S.C. §349(b)(1)(B) that dismissal of this case, prior to the entry of a discharge order, reinstates any lien voided under Section 522.

BY THE COURT:

Richard E. Fehling,
United States Bankruptcy Judge

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CERTIFICATE OF SERVICE

I, Betsy Lavelle, Paralegal to Stephen J. Palopoli III, Esquire hereby certify that a true and correct copy of Debtor's Motion To Avoid Judicial Lien of TD Bank USA, N.A., as Successor In Interest To Target National Bank Proposed Order and Notice of Hearing to Consider Motion was served via first class mail or ECF Filing on April 17, 2018 to the following:

United States Trustee
By ECF filing

Chapter 7 Trustee
Michael H. Kaliner, Esquire
By ECF filing

Attorney for Bank of America, N.A.
Kevin G. McDonald
By ECF filing

Attorney for TD Bank USA, N.A. as
Successor In Interest To Target National Bank
Gregg L. Morris, Esquire
213 E. Main Street
Carnegie, PA 15106

Cheryl Ann Jordan
417 Vine Street
Bethlehem, PA 18064

Notice of Hearing to Consider Motion only to the following:

Attorney for Cavalry SPV I, LLC
David J. Apothaker, Esquire
520 Fellowship Rd., Suite C306
P.O. Box 5496
Mt. Laurel, NJ 08054-5496

Attorney for Citibank, N.A.
Blatt, Hasenmiller, Leibsker & Moore, LLC
1835 Market St., Suite 501
Philadelphia, PA 19103

Attorney for Discover Bank
Michael J. Dougherty, Esq.
Weltman, Weinberg & Reis Co.
325 Chestnut St., Suite 501
Philadelphia, PA 19106-2614

April 17, 2018



Betsy Lavelle